

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Beverly Marne Davisson et. al.,
Petitioner-Appellant,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-30-0175
Parcel No. 06-11-130-008

On December 15, 2011, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Beverly Marne Davisson et. al. (Davisson) designated Attorney Patrick T. Burk, of Brick Gentry, PC, West Des Moines, Iowa as its representative. At hearing, Craig Davisson represented Davisson. Assistant County Attorney Lonnie Saunders represented the Dickinson County Board of Review. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Davisson is the owner of a residential, single-family property located at 16232 Highway 86, Spirit Lake, Iowa. The property is a one-story brick home, built in 1965, has 1754 square feet of total living area, and a 484 square-foot attached garage. The property has a half basement with 150 square feet of living quarters finish with a walk-out entrance. Additionally, property is improved with a 624 square-foot brick detached garage built in 1982, a 187 square-foot open porch, and a 224 square-foot open porch. The site is 0.868 acres with 180.42 effective front foot of lake-front, which was adjusted 17% for economic obsolescence.

Davisson protested to the Dickinson County Board of Review regarding the 2011 assessment of \$1,879,900, which was allocated as follows: \$1,689,200 in land value and \$190,700 in improvement value. Davisson's claims were based on the following grounds: 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a); 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(b); 3) that there is an error in the assessment under section 441.31(1)(c), stating the error was "the assessment data failed to account for current economic conditions"; and, 4) that there has been a change downward in the value since the last assessment under sections 441.37(1) and 441.35. The error claim and the plain language statement regarding the claim of downward assessment both essentially assert the subject property is over-assessed. Additionally, in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we consider the claims before the Board of Review were inequity and over-assessment.

The Board of Review denied the protest.

Davisson then appealed to this Board reasserting the claim that the property is assessed for more than authorized by law and the correct market value of the property is \$1,700,000, allocated as \$1,525,000 in land value and \$175,000 in improvement value.

On the Board of Review petition, Davisson listed four properties as equity comparables. This included the legal description and assessed value. The Board of Review provided the property record cards for each property. The property record cards verify the assessments listed by Davisson on the protest form are the 2011 total assessments for each property.¹ We note none of the four properties listed by Marne were recent sales and no information was presented regarding the fair market value of these properties. Craig Davisson did not discuss this information or present any additional evidence in support of an equity claim at hearing. His evidence and testimony were based solely on a claim of

¹ There was one typo, reporting the assessed value of a property as \$828,000 when it was actually \$828,800.

over-assessment. As result, an equity analysis could not be developed, however this is not relevant as the focus of their claim to this Board is over-assessment.

At hearing, Davisson submitted Exhibit 1 which was a two-page print out from the Dickinson County Assessors website. The print-out consisted of nineteen properties in Spirit Lake, West Okoboji, Okoboji, and Wahpeton. The list provided a parcel number, sale date, sale amount, thumbnail photo, address, style, year built, total living area, lot area, appraised (assessed) value, and recording date. The sales were selected based on the following criteria: having a sale date between January 1, 2010 and December 12, 2011; a sales price between \$700,000 and \$2,000,000; a lot area between 10,000 and 30,000 square-feet; and an assessed value between \$800,000 and \$2,500,000. We give this sales comparison list limited consideration, because a sales price was part of the search criteria. When search criterion contains a sales price range it could result in a pre-determined range of value.

We did, however, find it interesting that the high end of the sales price range was \$2,000,000, yet the highest sale returned in the search was \$1,365,000; the second highest sale was \$1,030,000. There were no other sales above \$1,000,000. Likewise the search criteria included a high end range for an assessed value of \$2,500,000; yet, the highest assessment was \$1,619,700. And, although there were only two properties with sale prices over \$1,000,000, there were eight properties with assessments greater than \$1,000,000.

Davisson also provided Exhibit 2: a summary appraisal report completed by Stacy Grover, of IGL Corridor Appraisals, Ltd., Spencer, Iowa. The appraisal has an effective date of April 4, 2011; however the three sales considered in the sales comparison approach all sold between April and August 2010. The appraisal was completed for estate valuation purposes and concluded a value opinion of \$1,394,000.

The appraisal considered three sales located at 3801 Lakeshore Drive and 1914 Funnel Street, Okoboji; as well as, 1014 Lake Street, Milford. All three sales are located approximately two to four

miles from the subject property and have fifty-two to eighty-five lake frontage². The sales prices ranged from \$1,100,000 to \$1,365,000.

Additionally, all three properties are two-story homes compared to the subject's one-story design. We note there are several large adjustments that lack explanation, for example location and condition. There also appears to be a lack of adjustments to the comparables or at least an explanation for not adjusting them. For example, no adjustments were made for differences between a one-story compared to a two-story. While it is possible the market may not recognize a difference, the appraiser provides no explanation. Essentially, the appraiser failed to explain her analysis. Although unexplained, the majority of the adjustments appear to be reasonable and it is the only evidence in the record of the fair market value of the subject property.

Lastly, we note the unadjusted price per square foot of the three sales ranges from approximately \$280 to \$630. The smallest property sets the upper end of this range which is typical, as there is generally an increase in price per square foot as the improvements decrease in size. The appraised value of the subject property indicates a price per square foot of roughly \$590, which appears reasonable and supported based on the sales. We compare this to the \$796 assessed value per square foot of the subject property, which does not appear to be in line with arm's length market sales.

The Board of Review provided a list of the 2009 and 2010 sales in the Okoboji area. The Board compared these sales to the appropriate assessment year to determine a sales ratio for an equity comparison. We note the 2010 ratio analysis is the most relevant and give the 2009 ratio analysis limited consideration.

There were thirty 2010 sales ranging from \$225,000 to \$1,365,000, with a median sales price of roughly \$740,000. We note these sales were not selected based on comparability, but rather to

² It is unknown if the report dimensions report the actual front foot or the effective front foot typically found on the assessors property-record cards. The appraiser reports lot dimensions for the subject as 160'E X 232' +/- . According to the property record card, the subject has an actual front foot of 153 feet, and an effective front-foot of 180.42 feet which takes into consideration the depth of the lot. We do not have the property record cards for the three sales in the appraisal report.

demonstrate overall equity in the area. It is unclear if all of the sales were even restricted to lake-shore properties. These sales were compared to the 2009 assessments to establish a sales ratio for each property. The median sales ratio of the thirty properties is noted as 99.57%; however the sales ratios themselves ranged from 71.67% to 138.23%. While these sales may demonstrate there is equity in the area based on a median ratio it does not demonstrate equity of similar properties.

Of the thirty sales listed by the Board of Review, seven had assessments greater than \$1,000,000. All seven of those properties had sales ratios ranging from 106.10% to 138.23%, with a median of 118.66% and an average of 121.71%. This data indicates properties with assessed values of greater than \$1,000,000 are typically selling between 6% to 38% less than their assessments and on average 21% less than their assessed values.

In response to the appraisal, the Board of Review notes it was “produced for the purpose of ‘Estate Valuation’” and in its opinion, “This is a notoriously unreliable benchmark for use in tax valuation as it is advantageous in estates to have the property valued either high or low depending on the size of the estate and the capital gain consequence attributable thereto.” We find this assertion unfounded. Essentially the Board of Review claims the appraiser with bias without any evidence to support this claim.

It also critiques the appraisal based on the lake front-foot adjustments. It notes the excess front foot of the Davisson property is valued at \$3000, compared to the \$12,000 front foot adjustments assigned by the Dickinson County Assessor’s Office. We note there is no evidence in the record to indicate which value is correct. The Board of Review contends the \$12,000 front foot value used by the assessor’s office was based on sales, but no site sales were provided to validate this assertion.

The Board of Review’s critique concludes by asserting the “Davisson property contains 160 feet of lakeshore frontage, enough for three build-able lots, each of which would command a premium price in today’s market.” While this may be true, the site is not currently subdivided and must be valued as a whole and as improved. Valuation of a whole site that may have subdivision potential

should properly reflect necessary and associated costs of re-platting, as well as potential demolition of existing structures. Additionally, typical valuation methodology would normally consider decreasing returns and would reasonably be applied to lake-front. The Board of Review appears to believe that a front-foot value is the same regardless of the front-foot to which it is applied. It does not appear to take into consideration sites that may have super-adequate frontage, and thus decreasing returns on the frontage that exceeds market requirements.

Based on the foregoing, we find sufficient evidence has been provided to demonstrate the subject property is over-assessed.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If

sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).

The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Davisson provided an appraisal completed by Stacy Grover of IGL Corridor Appraisals, Ltd. Spencer, Iowa. While the appraisal had limited explanation for adjustments, we find it to be the best evidence in the record regarding the fair market value of the subject property.

We find the evidence supports the claim that the property is assessed for more than the value authorized by Iowa Code section 441.21.

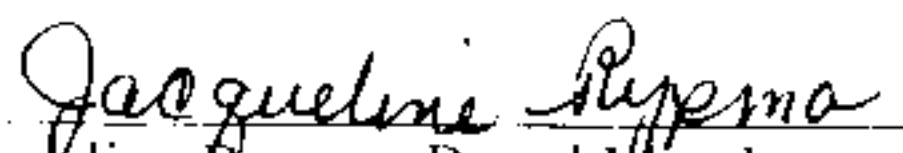
THE APPEAL BOARD ORDERS the assessment of the Beverly Marne Davisson, et. al. property located at 16232 Highway 86, Spirit Lake, Iowa, be modified to a total value of \$1,394,000, as of January 1, 2011.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Dickinson County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 24 day of January, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

Patrick T. Burk, Brick Genry, P.C.
6701 Westown Pkwy., #100
West Des Moines, Iowa
ATTORNEY FOR APPELLANT

Lonnie Saunders
PO Box E
Spirit Lake, Iowa, 51360
ATTORNEY FOR APPELLEE

Nancy Rieman
1802 Hill Avenue
Spirit Lake, IA 51360
AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-24</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	